

STATE OF NORTH DAKOTA
BEFORE THE COMMISSIONER OF INSURANCE

In the Matter of

**Hartford Insurance Company of the
Midwest,
FEIN 06-1008026,**

Respondent.

CONSENT ORDER

Commissioner of Insurance Jim Poolman (hereinafter "Commissioner") has determined as follows:

1. The Commissioner has authority in this matter pursuant to N.D. Cent. Code Title 26.1 and N.D. Cent. Code § 28-32-05.1.
2. Hartford Insurance Company of the Midwest, FEIN 06-1008026 (hereinafter "Respondent"), is a foreign insurance company licensed to do business in North Dakota pursuant to N.D. Cent. Code Chapter 26.1-11 and is domiciled in Indiana.
3. The Commissioner has jurisdiction over Respondent and the subject matter of this Consent Order and this Consent Order is made in the public interest.
4. N.D. Cent. Code § 26.1-04-03 states, in part:

The following are unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

...

2. False information and advertising generally. Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station, or in any other way, an advertisement, announcement, or statement containing any assertion,

representation, or statement with respect to the business of insurance or with respect to any person in the conduct of that person's insurance business, which is untrue, deceptive, or misleading.

5. N.D. Cent. Code § 26.1-11-08 states, in part:

The commissioner shall revoke or suspend all certificates of authority granted to a foreign insurance company or to its agents if, upon examination or other evidence, the commissioner is of the opinion that:

...

2. The company has failed to comply with any provision of the applicable laws of this state.

6. During March 2000, Respondent placed an advertisement for the AARP auto insurance program with certain newspapers in North Dakota.

7. Then Commissioner Glenn Pomeroy objected to the content of the advertisement as being misleading.

8. As a result of Commissioner Pomeroy's objection, Respondent discontinued the advertisements and represented to Commissioner Pomeroy that the advertisements would be revised to eliminate his concerns. A copy of Respondent's letter of March 24, 2000, is attached.

9. Notwithstanding Respondent's representations as set forth in its March 24, 2000, letter, the identical advertisement appeared in the Fargo Forum on or about January 31, 2001.

10. Commissioner Poolman alleges that the advertisement is misleading in violation of N.D. Cent. Code § 26.1-04-03(2).

11. Respondent asserts that the advertisement was part of a national advertising campaign but that the advertisement was published in North Dakota by error. Respondent asserts when the error was discovered Respondent attempted to cancel the advertisement, but the attempt was too late to stop the publication. Copies of two relevant emails are attached.

12. The Commissioner alleges that if the violations were in fact proven, such violations would constitute grounds upon which Respondent's Certificate of Authority may be revoked pursuant to N.D. Cent. Code § 26.1-11-08(2).

13. As a result of alleged conduct of Respondent, the Commissioner has considered scheduling a formal hearing to determine whether Respondent's conduct, as alleged, constitutes a basis for imposition of a civil penalty or other action by the Commissioner.

14. Respondent, without admitting that the advertisement is misleading, agrees to the entry of this Consent Order on the terms and conditions as set forth herein.

15. Respondent agrees to an informal disposition of this matter, without hearing, as provided under N.D. Cent. Code 28-32-05.1.

16. For purposes of resolving this matter without further administrative proceedings, and giving consideration to Respondent's unsuccessful attempt to halt the publication of the advertisement, Respondent and the Commissioner have agreed to the entry of the following Order:


NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. For allegedly publishing a misleading advertisement, Respondent shall pay a civil penalty in the amount of \$1,000. This penalty will be due within 15 days of the execution of this Consent Order.

2. Respondent shall **CEASE AND DESIST** from publishing the advertisement in North Dakota.

3. The use of this Consent Order for competitive purposes by an insurance agent or agency holding a license in the State of North Dakota, or by any company holding a Certificate of Authority, or by anyone on their behalf, may be deemed unfair competition and be grounds for suspension or revocation of said license or authority.

DATED at Bismarck, North Dakota, this 16th day of May, 2001.


Jim Poolman
Commissioner of Insurance
State of North Dakota

CONSENT TO ENTRY OF ORDER

The undersigned, Patrick J. Salve, on behalf of Hartford Insurance Company of the Midwest, states that he/she has read the foregoing Consent Order, that he/she knows and fully understands its contents and effect; that he/she has been advised of his/her right to be represented by legal counsel, his/her right to a hearing in this matter, his/her right to present evidence and arguments to the Commissioner, and his/her right to appeal from an adverse determination after hearing; and that by the signing of this Consent to Entry of Order he/she waives those rights in their entirety, and consents to entry of this Order by the Commissioner of Insurance. It is further expressly understood that this Order constitutes the entire settlement agreement between the parties hereto, there being no other promises or agreements, either expressed or implied.

DATED this 10th day of May, 2001.

Hartford Insurance Company of the Midwest

By:

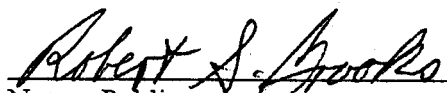


Name

Vice President

Title

Subscribed and sworn to before me this 10th day of May, 2001.


Notary Public

My commission expires:

ROBERT S. BROOKS

NOTARY PUBLIC

MY COMMISSION EXPIRES MAR. 31, ~~2006~~ 2006